

REMARKS

Status of Claims

Claims 1-17, 19-21, 23-28, and 36-44 are pending in the application. Claims 1-17, 19-21, 23-28, and 36-44 are rejected.

Rejections under 35 U.S.C. §102 and 103

The Examiner rejected claims 23-28 and 36-44 under 35 U.S.C. §102(b) as being anticipated by Ingle et al. ("Ingle"), U.S. Patent Nos. 6,091,995 or 6,216,704. The Examiner also rejected claims 1-17 and 19-21 under 35 U.S.C. §103(a) as being unpatentable over '995 Ingle et al. Applicant, through its representative, wishes to thank the Examiner for the teleconference held on March 8, 2007. Applicant suggested to the Examiner that the rejections of the claims should properly be an obvious-type double patenting rejection because, although not apparent on their face, the '995 and '704 Ingle patents were commonly owned by the same assignee of the present application as of the filing date of the present application, i.e. January 15, 2004. When the present application was filed, it was assigned to SURX, Inc. Subsequently, SURX, Inc. changed its name to Solarant Medical, Inc. Also note that in a prior conference with the Examiner, the Examiner questioned whether in view of Applicant's arguments submitted in its September 29, 2006 response the limitation of claim 1 reciting "100 cubic millimeters" should be "300 cubic millimeters." Applicant acknowledged that the Examiner was correct. However, due to the filing of the terminal disclaimers herewith, Applicant has amended the claim to its original form of "at least 100 cubic millimeters."

Applicant submits herewith (i) a terminal disclaimer over the '995 and '704 patents; (ii) Notice of Recordation of Name Change from SURX, Inc. to Solarant Medical, Inc. in the present application; (iii) Certificate of issued by the Secretary of State of Delaware evidencing the name change from SURX, Inc. to Solarant Medical, Inc. on February 3, 2004.

Conclusion

Applicant respectfully submits that with the filing of the terminal disclaimers and other evidence presented herein all pending claims are allowable, for at least the reasons discussed above, and respectfully requests that a Notice of Allowance with respect to all pending claims be issued in this case.

If the Examiner believes that a teleconference would be of further value in expediting the allowance of the pending claims, the undersigned can be reached at the telephone number listed below. The present response is being filed within the three-month statutory period for response (on or before March 19, 2007), and no fee or petition for an extension is due. If, however, it is believed that any additional fees are necessary, the Commissioner is hereby authorized to charge or credit any such fees or overpayment to Deposit Account No. 50-1901 (Reference #687-3101/US).

Dated: March 19, 2007

Respectfully submitted,

OPPENHEIMER, WOLFF & DONNELLY LLP
Attorneys for Applicants

By



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APRIL 22, 2004

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RECORDATION DATE: 04/14/2004

REEL/FRAME: 014520/0706
NUMBER OF PAGES: 7

BRIEF: CHANGE OF NAME (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

SURX, INC.

DOC DATE: 02/03/2004

ASSIGNEE:

SOLARANT MEDICAL, INC.
2675 COLLIER CANYON ROAD
LIVERMORE, CALIFORNIA 94550

SERIAL NUMBER: 10759732

FILING DATE:

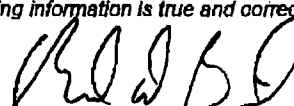
PATENT NUMBER:

ISSUE DATE:

LAZENA MARTIN, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

04/14/2004
700078521

Attorney Docket No. 017761-003610US

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Tab settings ⇨⇨⇨ ▼ ▼ ▼ ▼ ▼ ▼ ▼					
To the Honorable Commissioner of Patents and Trademarks. Please record the attached original documents or copy thereof					
1. Name of conveying party(ies): SURx, Inc.		2. Name and address of receiving party(ies) Name: Solarant Medical, Inc.			
Additional name(s) of conveying party(ies) attached? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No.		Internal Address: _____			
3. Nature of conveyance: <input type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input checked="" type="checkbox"/> Change of Name <input type="checkbox"/> Other:		Street Address: 2875 Collier Canyon Road			
Execution Date: 3 February 2004		City: Livermore State: CA ZIP: 94550			
		Additional name(s) and address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
4. Application number(s) or patent number(s): If this document is being filed together with a new application, the execution date of the application is:					
A. Patent Application No(s): 10/759732			B. Patent No(s): _____		
Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
5. Name and address of party to whom correspondence concerning document should be mailed: Name: Mark D. Barrish TOWNSEND AND TOWNSEND AND CREW LLP Two Embarcadero Center, Eighth Floor San Francisco, California 94111-3834 (415) 576-0200		6. Total number of applications and patents involved 1			
		7. Total fee (37 CFR 3.41): \$40.00 <input type="checkbox"/> Enclosed <input checked="" type="checkbox"/> Authorized to be charged to deposit account			
		8. Deposit account number: 20-1430 (Attach duplicate copy of this page if paying by deposit account)			
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9. Statement and signature. <i>To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.</i>					
Mark D. Barrish Name of Person Signing Atty. Reg. No. 36,443		 Signature		04/14/2004 Date	
Total number of pages including cover sheet, attachments and documents: 9					

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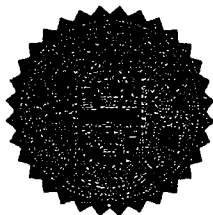
The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT THE SAID "SURX, INC.", FILED A CERTIFICATE OF AMENDMENT, CHANGING ITS NAME TO "SOLARANT MEDICAL, INC.", THE THIRD DAY OF FEBRUARY, A.D. 2004, AT 5:01 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID CORPORATION IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE NOT HAVING BEEN CANCELLED OR DISSOLVED SO FAR AS THE RECORDS OF THIS OFFICE SHOW AND IS DULY AUTHORIZED TO TRANSACT BUSINESS.

2618606 8320

040092839



Harriet Smith Windsor
AUTHENTICATION: 2923008
Harriet Smith Windsor, Secretary of State



DATE: 02-10-04